

GAHC010174692024



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : AB/2269/2024

SHAHADOT ALI
S/O LATE ERFAN ALI, R/O VILL- SATSIA, P.O.-JAMADARHAT, P.S.-
FAKIRGANJ, DIST- DHUBRI, ASSAM, PIN-783330

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. I H SAIKIA, MR K KASHYAB, MR. M R CHOUDHURY, MR.
K KALITA, MR. B BORAH

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 13.09.2024

Heard Mr. H.R.A. Choudhury, learned Senior Counsel assisted by Mr. I.H. Saikia, learned counsel for the petitioner. Also heard Mr. M. Phukan, learned Public Prosecutor for the State.

2. By this petition filed under Section 482 of the Bharatiya Nagarik Suraksha

Sanhita, 2023, the petitioner, namely, **Shahadot Ali**, has prayed for granting pre-arrest bail, apprehending arrest in connection with Vigilance P.S. Case No. 09/2024 under Section 120(B)/420/406/409/468/471 IPC r/w Section 13(1) (a)/13(2) of Prevention of Corruption Act, 1988.

3. The background of the case is that one Salim Malik who is the State Executive Member, Minority Morcha, BJP submitted a complaint petition before the Chief Minister's Special Vigilance Cell, Assam against the accused petitioner who is the tutor principal of Hamidabad College, Satsia, Dhubri, alleging *inter alia* that the petitioner had misappropriated college funds in connivance with the members of the Governing body of the said college. Pursuant to the said complaint, an enquiry was conducted by the vigilance cell and submitted a report accordingly and an FIR was registered vide Vigilance P.S. Case No. 09/2024.

4. It is submitted by the learned Senior counsel for the petitioner that the petitioner was working as Tutor Principal of Hamidabad College and he has reputation in the society. The original complainant is a political leader of the said region and he along with a few of his associates had some personal grudge upon the petitioner, lodged the complaint for which the instant FIR has been initiated.

5. It is further submitted that the petitioner was initially appointed as lecturer of Hamidabad College in the year 2000 and thereafter, he was appointed in-charge principal of the said college and subsequently appointed as Principal by the Governing body. The college was provincialized with effect from 01.01.2013 vide order dated 14.01.2014 and DDO was appointed for

disbursement of salaries but the service of the petitioner was dropped. The petitioner has no financial powers to withdraw or release of any college funds.

6. According to learned Senior counsel for the petitioner, no such financial anomalies could be attributed to the petitioner after his appointment as principal of Hamidabad College and the college funds have been duly audited by the Governing body of the said college by appointing auditors. The petitioner is a local person having sufficient immovable properties as such, there is no chance of his absconding if privilege of pre-arrest bail is extended to the petitioner.

7. In response, the learned Public Prosecutor has produced the case diary and opposed in granting bail to the petitioner by stating that on finding sufficient evidence to substantiate the case, the FIR was lodged at vigilance police station. Regular enquiry prior to registration of the case clearly points out very much financial irregularities on the part of the petitioner from 2009 to 2019. During investigation, misappropriation of public money by the petitioner along with others had been revealed which is supported by the forensic audit report and other documents collected during investigation. According to learned Public Prosecutor, custodial interrogation of the petitioner is required.

8. I have considered the submission of learned counsel for the parties. I have also perused the case diary.

9. Statements of some witnesses are available in the case diary recorded by the learned Magistrate under Section 183 BNSS (Section 164 Cr.P.C.) which reveals that the owner of one hardware store stated that no items were purchased from his shop despite of having the names of hardware store

mentioned in the books of account of the petitioner. The other witnesses also stated that they did not supply any kind of items to Hamidabad College during that period as per order of the college authority. The case dairy also reflects that the investigation is proceeding on the basis of documents. Under such backdrop, granting him bail at this stage may hamper the investigation.

10. On consideration of the matter in its entirety, this Court is not inclined to grant bail to the petitioner at this stage. Therefore, prayer for bail is **rejected**.

11. The pre-arrest bail application stands disposed of.

12. Send back the case diary.

JUDGE

Comparing Assistant